

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

UNITED STATES OF AMERICA)
)
 v.) NO. 3:12-00040
)
JOHN WESLEY NEWELL)

O R D E R

On December 18, 2012, the undersigned Magistrate Judge conducted a hearing on defendant Newell's motion for reconsideration of bond (Docket Entry No. 22).

At this hearing, defendant Newell called as his sole witness his mother, Judy Newell. Ms. Newell testified in substance that she had been receiving kidney dialysis treatment three times a week since July 2011, and is in dire need of a kidney transplant. Ms. Newell further explained that her doctors have expressed concern that unless she receives a transplant soon she may become too old to be eligible to undergo a transplant. She further testified that her son, defendant Newell, had undergone preliminary testing to determine whether he would be a suitable kidney donor for her. She testified that defendant Newell had completed two of a total of seven tests necessary to determine whether one of his kidneys would be a "match" for her. Ms. Newell further testified that it is her understanding that the necessary additional testing to determine the defendant's suitability as a kidney donor could

not be completed, even on an outpatient basis, if the defendant remains in custody.

The Government offered no proof at the hearing but, through counsel, argued that given defendant Newell's considerable history of violent offenses, including several gun crimes, the Government opposed defendant's motion that he be released and allowed to live with his parents while undergoing testing to determine whether he is an acceptable kidney donor for his mother. The Government did, however, express willingness to consider agreeing to permit defendant Newell to undergo medical testing on an outpatient basis provided that he is returned to custody each evening.

From the proof offered at the hearing and from discussions with counsel, the undersigned finds that, in light of defendant Newell's considerable history of violent offenses and violations of parole, there is no condition or combination of conditions that would reasonably protect the safety of the community if he were released in accordance with the proposals in his instant motion. Therefore, defendant's motion to reconsider bond is DENIED without prejudice to defendant's right to seek temporary release in order to complete kidney donor testing, provided that such testing can be done on an outpatient basis or subject to other conditions that can reasonably protect the safety of the community.

It is so **ORDERED**.

s/ John S. Bryant

JOHN S. BRYANT

United States Magistrate Judge